

## Pension Benefit Guaranty Corporation

## § 4002.3

(2) Persons are under common control if they are members of a “controlled group of corporations”, as defined in regulations prescribed under section 414(b) of the Code, or if they are “two or more trades or businesses under common control”, as defined in regulations prescribed under section 414(c) of the Code.

### PART 4002—BYLAWS OF THE PENSION BENEFIT GUARANTY CORPORATION

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AUTHORITY: 29 U.S.C. 1302(b)(3), 1302(f).

SOURCE: 73 FR 29985, May 23, 2008, unless otherwise noted.

#### § 4002.1 Name.

The name of the Corporation is the Pension Benefit Guaranty Corporation.

#### § 4002.2 Offices.

The principal office of the Corporation is in the Metropolitan area of the City of Washington, District of Columbia. The Corporation may have additional offices at such other places as the Board of Directors may deem necessary or desirable to the conduct of its business.

#### § 4002.3 Board of Directors, Chair, and Representatives of Board Members.

(a)(1) The Corporation is governed by a Board of Directors which is composed of the Secretary of Labor, the Secretary of the Treasury, and the Secretary of Commerce. Members of the Board shall serve without compensation, but shall be reimbursed by the Corporation for travel, subsistence, and other necessary expenses incurred in the performance of their duties as

Members of the Board. A person at the time of a meeting of the Board of Directors who is serving in an acting capacity as Secretary of Labor, Secretary of the Treasury, or Secretary of Commerce shall serve as a Member of the Board of Directors with the same authority and effect as the designated Secretary.

(2) The Secretary of Labor shall be the Chair of the Board of Directors and shall call and preside over all Board meetings, and shall, on behalf of the Board, review and approve the Corporation's budget. The Inspector General of the Corporation shall report to the Board through the Chair.

(3) The Board of Directors is responsible for establishing and overseeing the policies of the Corporation. The Board may delegate powers to the Director of the Corporation except that the following powers of the Board may not be delegated to the Director of the Corporation:

(i) Voting on an amendment to these bylaws;

(ii) Approval of the Annual Management Report (AMR), which includes the annual financial statements, management's discussion and analysis, annual performance report, and reports of the independent auditor;

(iii) Approval of the Annual Report, which includes the AMR, the Chairman's message, and certain statutory reporting requirements;

(iv) Approval of the Corporation's Investment Policy Statement;

(v) Approval of the issuance of any notes or debt instruments to the Secretary of the Treasury under Section 4005(c) of ERISA;

(vi) Approval of all final nonprocedural regulations prior to publication in the FEDERAL REGISTER, except for amendments that establish new interest rates and factors under Parts 4044 (Appendices C and D) and 4281 of this chapter, which may be approved by the Director of the Corporation;

(vii) Approval of all reports or recommendations to the Congress required by Title IV of ERISA;

(viii) Approval of any policy matter that would have a significant impact on the pension insurance program or its stakeholders; and

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(ix) Review of reports from the Corporation's Inspector General that the Inspector General deems appropriate to deliver to the Board.

(4) The Board shall review the Corporation's Investment Policy Statement at least every two years and approve the Investment Policy Statement at least every four years.

(b)(1) Each Board Member shall designate in writing an official, not below the level of Assistant Secretary, to serve as the Board Member's Representative. Such designation shall be effective until revoked or until a date or event specified therein. A Board Representative may act for all purposes under these bylaws, except that an action of a Board Representative on a Board Member's behalf with respect to the powers described in paragraph (a)(3)(i) through (v) of this section, shall be valid only upon ratification in writing by the Board Member. Any Board Representative may refer for Board action any matter under consideration by the Board Representatives.

(2) A Board Member may designate in writing an official, not below the level of Assistant Secretary, to serve as the Board Member's Alternate Representative at a meeting. An Alternate Representative may act for all purposes at that meeting, except that the Alternate Representative's actions shall be valid only upon ratification in writing by either the Board Member or the Board Representative. Any action of the Alternate Representative involving the powers described in paragraph (a)(3)(i) through (v) of this section or any matter that has been referred to the Board under paragraph (b)(1) of this section must be ratified in writing by the Board Member.

(3) For purposes of this section, ratification shall include approval of the minutes of the meeting of the Board of Directors.

(c) Final procedural regulations and all proposed regulations shall be approved by the Director of the Corporation prior to publication in the FEDERAL REGISTER; however, all final procedural regulations and all proposed regulations shall first be reviewed for comment by each Board Representative, except for amendments that establish new interest rates and factors

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under Parts 4044 (Appendices C and D) and 4281 of this chapter. A Board Representative may, within 21 days of receiving a final procedural regulation or proposed regulation for review, request that it be referred to the Board Representatives for approval.

#### **§ 4002.4 Quorum.**

A majority of the Board Members shall constitute a quorum for the transaction of business. Any act of a majority of the Members present at any meeting at which there is a quorum shall be the act of the Board.

#### **§ 4002.5 Meetings.**

Regular meetings of the Board of Directors shall be held as often as required to provide appropriate oversight and guidance to the Corporation and at such times as the Chair shall select. Special meetings of the Board of Directors shall be called by the Chair on the request of any other Board Member. Reasonable notice of any meetings shall be given to each Board Member. The General Counsel of the Corporation shall serve as Secretary to the Board of Directors and keep its minutes. As soon as practicable after each meeting, a draft of the minutes of such meeting shall be distributed to each Member of the Board for approval.

#### **§ 4002.6 Place of meetings; use of conference call communications equipment.**

Meetings of the Board of Directors shall be held at the principal office of the Corporation unless otherwise determined by the Board of Directors or the Chair. Any Member may participate in a meeting of the Board of Directors through the use of conference call telephone or similar communications equipment, by means of which all persons participating in the meeting can speak to and hear each other. Any Board Member so participating in a meeting shall be deemed present for all purposes. Actions taken by the Board of Directors at meetings conducted through the use of such equipment, including the votes of each Member, shall be recorded in the usual manner in the minutes of the meetings of the Board of Directors.